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9 UNITED STATES DISTRICT COURT  
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
11 (SAN JOSE DIVISION)

12 **CAMELBAK PRODUCTS, LLC**, a  
13 Delaware limited liability company,

14 Plaintiff,

15 v.

16 **OSPREY PACKS, INC.**, a Colorado  
17 corporation,

18 Defendant.

Case No. 5:15-cv-906-PSG

**PLAINTIFF CAMELBAK PRODUCTS,  
LLC'S ANSWER TO DEFENDANT  
OSPREY PACKS, INC.'S FIRST  
AMENDED ANSWER AND  
COUNTERCLAIMS**

19 Plaintiff CamelBak Products, LLC ("CamelBak") hereby submits this Answer to  
20 Counterclaims filed by Defendant Osprey Packs, Inc. ("Osprey Packs") on June 8, 2015  
21 [ECF No. 27].

22 **NATURE OF THE ACTION**

23 1. These Counterclaims arise from CamelBak's allegations of infringement against  
24 Osprey Packs.

25 **ANSWER:** CamelBak admits the allegation in paragraph 1.  
26

2. According to the allegations set forth in the Complaint, CamelBak claims to be the owner by assignment of the entire right, title, and interest in the '243 patent.

**ANSWER:** CamelBak admits the allegation in paragraph 2 and further states that it is the owner by assignment of the entire right, title and interest in the '243 patent.

3. CamelBak has accused Osprey Packs of directly infringing the '243 patent. Osprey Packs denies that it has infringed any valid and enforceable claim of the '243 patent.

**ANSWER:** CamelBak admits the allegation in paragraph 3.

4. An actual case and controversy exists between the parties concerning infringement of one or more claims of the '243 patent, and that controversy is ripe for adjudication by this Court.

**ANSWER:** CamelBak admits the allegation in paragraph 4.

### **JURISDICTION AND VENUE**

5. These are Counterclaims for a declaration of non-infringement and invalidity of one or more claims of the '243 patent. This Court has subject matter jurisdiction over these Counterclaims pursuant to 28 U.S.C. §§ 1331, 1338, and 2201. This Court also has personal jurisdiction over CamelBak because CamelBak has already submitted to the jurisdiction of this judicial district by initiating the instant lawsuit.

**ANSWER:** CamelBak admits that Osprey Packs' Counterclaims are for a declaration of non-infringement and invalidity of the '243 patent, but deny that Osprey Packs is entitled to such a declaration. CamelBak admits the remaining allegations in paragraph 5.

6. Venue for these Counterclaims is legally proper in this District pursuant to 28 U.S.C. §§ 1367 and 1391.

**ANSWER:** CamelBak admits the allegation in paragraph 6.

### **PARTIES**

7. Counterclaim-Plaintiff Osprey Packs is a Colorado corporation with its principal place of business in Cortez, Colorado.

**ANSWER:** CamelBak admits the allegation in paragraph 7.

8. According to the allegations in paragraph 4 of the Complaint, Counterclaim-Defendant CamelBak is a limited liability company organized under the laws of Delaware with its principal place of business in Petaluma, California.

**ANSWER:** CamelBak admits the allegation in paragraph 8.

**COUNTERCLAIM COUNT I****(Non-Infringement of U.S. Patent No. 7,063,243)**

9. Osprey Packs repeats and re-alleges the allegations contained in paragraphs 1 through 8 as if fully set forth herein.

**ANSWER:** In response to paragraph 9, CamelBak realleges and incorporates herein its answers to paragraphs 1 through 8, above.

10. Osprey Packs is neither infringing, contributorily infringing, actively inducing others to infringe, nor otherwise liable under 35 U.S.C. § 271 for infringement of any claim of the '243 patent as properly construed.

**ANSWER:** CamelBak denies the allegations in paragraph 10.

11. To resolve the legal and factual questions raised by CamelBak and to afford relief from the uncertainty and controversy that CamelBak's accusations have precipitated, Osprey Packs is entitled to declaratory judgment that it has not infringed and is not infringing, directly or indirectly, any valid, enforceable claim of the '243 patent, either literally or under the doctrine of equivalents.

**ANSWER:** CamelBak denies the allegations in paragraph 11.

**COUNTERCLAIM COUNT II****(Invalidity of U.S. Patent No. 7,063,243)**

12. Osprey Packs repeats and re-alleges the allegations contained in paragraphs 1 through 8 as if fully set forth fully herein.

**ANSWER:** In response to paragraph 12, CamelBak realleges and incorporates herein its answers to paragraphs 1 through 8, above.

13. One or more claims of the '243 patent are invalid or unenforceable for failing to meet the requisite statutory and decisional requirements and/or conditions for patentability under one or more of 35 U.S.C. §§ 101, 102, 103, and 112.

**ANSWER:** CamelBak denies the allegation in paragraph 13.

14. To resolve the legal and factual questions raised by CamelBak and to afford relief from the uncertainty and controversy from which CamelBak's accusations have precipitated, Osprey Packs is entitled to a declaratory judgment that the '243 patent is invalid.

**ANSWER:** CamelBak denies the allegation in paragraph 14.

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**PRAYER FOR RELIEF**

WHEREFORE, CamelBak is entitled to a judgment in its favor as requested in its Complaint and dismissing each of Osprey Packs' Counterclaims.

DATED: June 24, 2015.

TONKON TORP LLP

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**CERTIFICATE OF SERVICE**

I hereby certify that I served the foregoing **PLAINTIFF CAMELBAK PRODUCTS, LLC'S ANSWER TO DEFENDANT OSPREY PACKS, INC.'S FIRST AMENDED ANSWER AND COUNTERCLAIMS** on:

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- ☒ by electronic means through the Court's Case Management/Electronic Case File system on the date set forth below;
- ☐ by mailing a copy thereof in a sealed, first-class postage prepaid envelope, addressed to each attorney's last-known address and depositing in the U.S. mail at Portland, Oregon on the date set forth below;
- ☐ by causing a copy thereof to be e-mailed to each attorney at said attorney's last-known email address on the date set forth below; and/or
- ☐ by concurrently electronically mailing this document in Word format to each attorney's last-known email address on the date set forth below.

DATED: June 24, 2015.

TONKON TORP LLP

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